IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2004

CORAM

THE HONOURABLE MR. JUSTICE A.K. RAJAN

WRIT PETITION NO.17849 OF 2000

A.R. Sampath Raghavan .. Petitioner

Vs.

1. The Managing Director,
   Food Corporation of India,
   16-20 Barakhamba Lane,
   New Delhi 110 001.

2. The Regional Director (Food)
   Southern Region,
   Ministry of Food and Civil
   Supplies (Department of Food)
   Chennai House,
   No.7, Esplanade,
   Chennai 600 108.

3. The Zonal Manager (South)
   Food Corportion of India,
   Zonal Office,
   No.2, Haddows Road
   Chennai 600 006. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus as stated therein.

For Petitioner : Mr.S. Sridhar for M/S Aiyar & Dolia
For Respondent : No Appearance
Respondent-2 : Mrs.S. Vijayadharani,ACGSC
Respondent-3 : Mr.S. Vijaya Kumar

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O R D E R

The prayer in the writ petition is to issue a writ of Mandamus directing the respondents to fix the pension payable to the petitioner as per the Government of India Pension Rules and pay the Gratuity and GPF amount and other benefits.

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2. In the affidavit filed by the petitioner it is stated as follows:

In the year 1997 an option was called for from the Food Department Transferees either to opt for Government benefits or to opt for Corporation benefits and it is stated "*Now on verification it is stated that I had opted for (FCI) terminal Corporation benefits in the year 1977.*" Another option was called for during 1978 wherein he had opted for Central Government terminal benefits and since then he was remitting the amounts to the credit of GPF and he was allowed to withdraw 90% of the amount as per the rules one year before his superannuation. Having allowed him to contribute towards GPF, it was not open to the respondents to withhold his terminal benefits.

3. A counter has been filed, in which it is stated that the option was called for in the year 1976 and the option once exercised shall be final and it cannot be revoked. In accordance with the provisions contained in the Presidential Ordinance, options were called for from all the food Department Transferees by the Government Circulars dated 11.1.1977 and 21.1.1977. In response to these circulars, the petitioner submitted the option on 4.3.1977 well within the prescribed time limit to be governed by the Scale of pay applicable to the Post under the Corporation to which he was transferred and also to leave, Provident Fund and other terminal benefits admissible to the employee of the Corporation under the Regulation made by the Corporation under the Food Corporations Act.

4. No rejoinder to this counter has been made by the petitioner. In the affidavit it is stated that a second option was called for in the year 1978. But, no material has been placed before this court that a second option was called for in the year 1978 by the petitioner.

5.In view of the specific stand taken by the Food Corporation of India that an option once exercised by the petitioner cannot be revoked subsequently, there is no other alternative except to dismiss the petition. From the affidavit as well as in the counter affidavit, it is clear that the petitioner had exercised the option in the year 1977. The subsequent change in the stand taken by the petitioner that a second option was called for in the year 1978 and he opted for Central Government terminal benefits, has not been substantiated. Therefore that cannot be accepted as correct and further in view of the fact that first option cannot be

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revoked, the statement of the petitioner does not appear to be correct. In these circumstances, the petitioner is not entitled for the prayer of writ of mandamus directing the respondents to give pensionary benefits in accordance with the Central Government Pension Rules. Hence, the writ petition is dismissed. No costs

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Managing Director,
   Food Corporation of India,
   16-20 Barakhamba Lane,
   New Delhi 110 001.

2. The Regional Director (Food)
   Southern Region,
   Ministry of Food and Civil
   Supplies (Department of Food)
   Chennai House,
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3. The Zonal Manager (South)
   Food Corportion of India,
   Zonal Office,
   No.2, Haddows Road
   Chennai 600 006.

1 cc to Mr.S.Vijayakumar, Advocate SR.57298
1 cc to Mr.S.Vijayadharani, ACGSC, SR.57354
1 cc to M/s. Aiyar & Dolia, Advocate SR.57433
rl (co)
dv

W.P.No.17849 of 2000

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